IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 13626 of 2005

Between:

P.Siva Rao, S/o.Late Gopala Rao,
D.No.26-43-4/1, Chaitanyanagar,

Gajuwaka, Visakhapatnam district.

..... PETITIONER

AND

1 Gajuwaka Municipality,

rep by its Commissioner,

Gajuwaka, Visakhapatnam district.
2 The Visakhapatnam Urban Development Authority,

Rep by its Vice-Chairman,

Visakhapatnam, Visakhapatnam dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ, order or direction particularly a writ in the nature of writ of Mandamus directing the respondents not to demolish the 3rd and 4th Floors of the petitioners building constructed in an extent of 500 Sq.Yds covered by Sy.No.181/9 of Chinagantyada Village, Gajuwaka Municipal limits, arbitrary, illegal and violative of Articles 14, 21 and 300-A of the Constitution of India besides gross violation of principles of natural justice and the provisions of A.P.Urban Areas (development) Act. 1975 with all consequential benefits and pass such other relief or reliefs.

Counsel for the Petitioner: MR.B.M.PATRO
Counsel for the Respondent No.1: MR.S.NAGESWARA REDDY
Counsel for the Respondent No.2: MS.V.PREETI REDDY

The Court made the following :

ORDER:

This writ petition is filed seeking a direction to the respondents, not to demolish the third and fourth floors of the petitioner's building constructed in an extent of 500 square yards covered by S.No.181/9 of Chinagantyada Village, Gajuwaka Municipal Limits, Gajuwaka Mandal, Visakhapatnam.

The facts emanating from the writ petition can be succinctly stated as follows:

Petitioner, who is the owner of a vacant site admeasuring an extent of 500 sq.yards covered by Sy.No.181/9 of Chinagantyada Village, Gajuwaka Municipal Limits, Gajuwaka Mandal, Visakhapatnam, constructed a building with two floors therein after obtaining an approved plan on 11-01-2005. Thereafter, on 10-03-2005, he submitted a revised plan for construction of two more floors. On oral assurance of the officials of the first respondent, petitioner proceeded with the construction and completed it. While so, on 13-06-2005 without issuing prior notice, the first and second respondents rushed to the petitioner's house and undertaken spontaneous dismantling of his house. At petitioner's request, the respondent officials served him with a notice dated 21-05-2005, calling him to submit his explanation within ten days. But on 22-06-2005, the respondents again tried to demolish the petitioner's house. On severe protest from the petitioner that the notice time is still available, the respondents left the place threatening the petitioner with dire consequences. Petitioner submitted his explanation on 23-06-2005. Pending consideration of the above said explanation, the petitioner apprehends demolition of his building by the respondents. Therefore, he filed the present writ petition.

The learned Counsel for the petitioner submitted that the action of the respondents, in proposing to demolish the petitioner's house without waiting for the

time stipulated in the notice, and without passing any order of demolition under Section 42 of the A.P. Urban Areas (development) Act, 1975, is unwarranted and unsustainable.

On the other hand, the learned Counsel for the respondents contended that the third and fourth floors of the petitioner's building have to be demolished, inasmuch as the petitioner proceeded with the unauthorized construction of the same without waiting for the approval of his revised plan.

Heard learned Counsel on either side.

The explanation offered by the petitioner is still pending consideration before the respondents. As such it is not discernible to delve into the matter. In order to facilitate proper adjudication of the lis, I deem it appropriate to direct the respondents to consider the explanation offered by the petitioner, and dispose of the same on merits.

Accordingly, the Writ Petition is disposed of. The respondents are directed to consider the explanation offered by the petitioner on 23-06-2005, and pass appropriate orders thereon within a period of eight weeks from the date of receipt of a copy of this order. Till such time, the respondents shall not demolish the 3rd and 4th floors of the petitioner's building constructed in an extent of 500 sq.yards covered by Sy.No.181/9 of Chinagantyada village, Gajuwaka Municipal Limits, Gajuwaka Mandal, Visakhapatnam. There shall be no order as to costs.

24-06-2005

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Copy to:

1 The Commissioner, Gajuwaka Municipality,

Gajuwaka, Visakhapatnam District.
2 The Vice-Chairman, Visakhapatnam Urban Development

Authority, Visakhapatnam, Visakhapatnam Dist.

3 Two CD copies.